
Positive Approaches Toward Legal Responsibilities (M5)

Case Study - Annotated Version

As Deputy Commander for Cadets of the Roman Polanski Composite Squadron of Bliss Wing, you are also project officer for this weekend's fly-in at Big Grassy Field.¹ Your squadron commander signed the agreement with the Really Early American Aircraft Association in which he agreed² to provide cadets to walk security patrols³ 24-hours a day⁴ during the 3-day fly-in, in exchange for REAAA flying each of your cadets around the pattern.⁵

It is Saturday night, one day to go. It's been tough for you as the only senior there to supervise some 50 cadets from around Bliss Wing and you look forward to Sunday night.⁶ You're grateful that you've got some supervisory assistance from some cadet officers (ages 15 to 19) so that you've been able to get a little sleep.⁷ It doesn't help that Grassy Field is so big, but the local golf club has lent CAP six golf carts, so cadets can get to and from their assignments fairly quickly.⁸

Your daughter has just awakened you in your private office in the FBO where all the off duty cadets are sleeping in sleeping bags on cots on the hangar floor.⁹ (The squadron commander got a deal on this, too! The agreement he signed with them merely required that we indemnify them if there were any lawsuits arising because our being on the property.)¹⁰

¹ You're acting as the sole "grown up" on this activity, *in loco parentis*.

² Only a corporate officer - typically the wing commander - is authorized to sign such agreements.

³ CAP doesn't provide "security." Even if we call it by another name, is it within our charter?

⁴ Do we run afoul of child labor laws doing this? If security is an issue, is this a job for children?

⁵ This would be entrusting the safety of CAP cadets to pilots whose qualifications have not been confirmed by CAP, whom the parents have not authorized, (they've authorized CAP itself and USAF by way of the membership application, CAPF 15, but strangers?), and whose backgrounds have not been checked. The pilots are likely not commercially rated, and that, too, may be a problem for CAP if there's an accident.

⁶ Many organizations impose a minimum ratio of adults to children for activities. It varies with the age of the children and the nature of the activity, but 1:50 is just too few in anyone's book.

⁷ Although the presence of other supervisors (especially those who are legally "adults") helps, the 1:50 ratio may establish negligence if something happens that more supervision would have prevented.

⁸ Are cadets authorized by regulations to operate golf carts? Cadets would argue they're not a vehicle and therefore not covered by the regulation. The laws of most states will not consider a golf cart a "motor vehicle" as it isn't street legal, therefore, our automobile insurance policy does not cover it at all. In keeping with the spirit of the regulation, and in recognition that we've had several golf cart accidents caused by under age drivers misjudging speed on turns or other operator errors, it could be argued that regardless of the regulations, one would be ill advised to permit cadets to operate golf carts.

⁹ Supervision? Is it a problem that both male and female cadets are sleeping in the same room? Not necessarily, although the question is worth asking.

¹⁰ It should've been signed by the wing commander (see earlier footnote) and, because of the indemnity agreement, only with the approval of general counsel. (CAPR 87-1, para. 3b. "Some lessors propose a written lease for CAP to execute. Do not sign leases containing 'hold harmless' or 'indemnification' clauses unless NHQ CAP/GC approves them. Many times lessors will agree to remove or modify these clauses and substitute a clause requiring CAP to name the lessor as an 'additional insured' on CAP's liability insurance." This clause makes CAP the insurance carrier for the FBO, and with no policy limits! This is not a good deal.

"[Dad /Mom]," she says hesitatingly, "I've got to talk with you about something, but you've got to promise not to tell."¹¹

You explain to her that you can't make any such promise.¹² With a little effort on your part, you get her to tell her story.¹³

"Sgt. Chris Largent just told me about sneaking out of the hangar with Lt. Larry Flint¹⁴. (You know, the cute blonde cadet from Big Beach?¹⁵ He just got his driver's license and plans to drive both of them home after the fly-in tomorrow.)¹⁶ Chris went on and on about how private and romantic it was for them in the dark, under the wing of that B-17.¹⁷ Chris even kept a couple of these as souvenirs." (At that, she hands you an empty condom wrapper.)¹⁸

As you silently count to ten, and then to twenty,¹⁹ she goes on: "But now, what happened last year to Julio and Marge Largent has Chris worried.²⁰ Last year, when their father learned that their sister Marge was no longer "pure," he beat her up and threw her out of the house²¹. The same thing happened when he learned what their younger brother, Julio, was doing down by the schoolyard. It turns out, Julio is gay. The brother and sister are now 14 and 16. Both of them lived on the street for weeks until a distant relative took them home."²²

You've now counted to fifty. What do you do now?

¹¹ Don't sign this "blank check." You'll be making promises you can't keep.

¹² Good move.

¹³ Another good move!

¹⁴ The supervision problem just caught up with you. Is Sgt. Largent a cadet or senior member? Is she a minor or an adult? Is Lt. Flint a cadet or senior member? Is he a minor or an adult?

¹⁵ He's a cadet. From earlier information, you know his age could be 15 to 19. One question answered, three to go. Add one: was he one of your supervisors? What care did you exercise in "hiring" him as a supervisor? Relations between a supervisor and a subordinate may trigger concerns about "sexual harassment."

¹⁶ The driver's license suggests that he's at least the minimum driving age in Bliss (whatever that age is) and suggests that he recently became that age. Limiting the question strictly to the cadet driving issue - should you prevent him from driving her home tomorrow? Consider this issue later.)

¹⁷ Private? So much for your providing 24 hour security. Where were the cadets who were on duty? We don't know that anything "untoward" happened just yet.

¹⁸ Doubts we had about the degree of "impropriety" have nearly been discharged with this little bit of information. The ages of the participants is now of great importance. Does CAP have a duty to report this conduct? Do you? "Unlawful sexual contact with a minor," in many states, doesn't define its terms by the age of the perpetrator - both could be "victims" under the law. By definition, minors are incapable of "consent," although this may be "voluntary." Some states would consider that the minors have a right of privacy if they are "of similar ages."

¹⁹ Good move.

²⁰ I'd think that you're worried too, at this point.

²¹ Useful information, not necessarily true. Just hold onto it for the moment.

²² At this point, you know that Sgt. Largent is probably about 15 years of age. The other information, while useful, doesn't require immediate action. Has anybody considered the possibility that Sgt. Largent may be gay? If this is true, what are CAP's policies and practices?